

THE HYDERABAD SALES OF MOTOR SPIRIT TAXATION
REGULATION, 1358 Fasli.

No. XXIV of 1358 F.

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* THE HYDERABAD SALES OF MOTOR SPIRIT

TAXATION REGULATION, 1358 FASLI.

No. XXIV of 1358 F.

Whereas it is expedient to provide for the levy of a tax on retail sales of motor spirit in Hyderabad State;

Now, therefore, in exercise of the powers vested in me as the Military Governor of the Hyderabad State and all other powers enabling me in that behalf I hereby make the following Regulation;

1. This Regulation may be called the Hyderabad Sales of Motor Spirit Taxation Regulation, 1358 Fasli and shall come into force at once in the whole of Hyderabad State.

Short title,
extent and
commence-
ment.

2. In this Regulation unless there is anything repugnant in the subject or context:—

(a) "Commissioner" means a person appointed to be a Commissioner under Section 4;

(b) "Government treasury" means a Treasury or sub-treasury of the Government and includes any Office, Branch or Agency of Hyderabad State Bank, transacting treasury business for the Government of Hyderabad State;

(c) "importer" means any person who imports motor spirit into Hyderabad State;

(d) "motor spirit" means any substance which by itself or in admixture with other substances is ordinarily used directly or indirectly to provide reasonably efficient fuel for automotive or stationary internal combustion engines, and includes petrol, diesel oil, power alcohol, mixture of power alcohol and petrol and other internal combustion oils but does not include furnace oil, kerosene, coal or charcoal;

(e) "petrol" means dangerous petroleum as defined in the Hyderabad Petroleum Act No. II of 1319 Fasli;

(f) "prescribed" means prescribed by rules made under this Regulation;

(g) "retail dealer" means any person who sells or keeps for sale motor spirit for the purpose of consumption by the person by whom or on whose behalf it is or may be purchased.

(h) "retail sale" means a sale of motor spirit by a retail dealer for the purpose of consumption by the person by whom or on whose behalf it is or may be purchased, and the expression "sell in retail" shall be construed accordingly ;

(i) "Sales Tax Officer" means a person appointed to be a Sales Tax Officer under Section 4; and

(j) "wholesale dealer" means any person who sells motor spirit, or keeps motor spirit for sale, to dealers in such spirit, for the purpose of trade.

Explanation.—A sale of motor spirit by a Co-operative Society, or a club, a firm or any association to one of its members for consumption is a retail sale within the meaning of clause (h).

Payment
of Tax.

3. (1) Subject to the provisions of this Regulation there shall be levied on all retail sales of motor spirit effected after the commencement of this Regulation a tax at the rate of two annas per gallon ; and such tax shall be payable by the person effecting the sale :

Provided that the Government may from time to time by notification fix any other rate at which the tax shall be payable.

(2) Where any retail dealers obtain their supplies of motor spirit from an importer or a wholesale dealer, it shall be open to the Government, by agreement with the importer or wholesale dealer, to levy from him in advance the tax which may be payable by the retail dealers under sub-section (1) on the sale by them of the motor spirit and the provisions of this Regulation relating to the assessment and recovery of tax shall, subject to such conditions as may be agreed upon, apply to the importer or wholesale dealer accordingly.

(3) No tax shall be levied under this Regulation on the sale of any motor spirit in respect of which such tax has already been paid.

Exemption
of
aviation
spirit.

*3-A. [Omitted].

Sales Tax
Authority.

4. The Government may by a notification in the Jarida appoint a Commissioner and as many Sales Tax Officers as it thinks fit for the purposes of this Regulation. The Sales Tax Officer shall be under the general control of the Commissioner and shall perform his functions in respect of such areas as the Commissioner may direct.

5. (1) No person shall, after the commencement of this Regulation carry on business in motor spirit as an importer or as a wholesale or retail dealer at any place in Hyderabad State unless he has been registered as such under this Regulation : Registration of importers and dealers.

Provided that persons carrying on business on the date of the enforcement of this Regulation shall be allowed two months from such date to get themselves registered under this Regulation.

Explanation.—Where a person has more than one place of business, whether in the same town or village or in different towns and villages, he shall get himself registered separately in respect of each such place of business.

(2) (a) No importer or wholesale dealer shall, unless also registered as a retail dealer under this Regulation, sell motor spirit for consumption or sale in Hyderabad State to any person other than an importer or a wholesale dealer or a retail dealer, registered as such under this Regulation.

(b) No retail dealer shall use or transfer for consumption any motor spirit stocked by him without its being included in his accounts and in the next return of retail sales submitted by him under section 6 (b).

(3) Application for registration as an importer or a wholesale dealer or a retail dealer under this Regulation shall be made in such forms and to such authority as may be prescribed.

(4) Registration may be made subject to such conditions, if any, as may be prescribed, including in the case of an applicant for registration as a retail dealer, the making of such deposits or the furnishing of such security as the registering authority may consider necessary to ensure the due payment of tax which may from time to time be payable by him.

(5) No person including a company or firm registered as an importer, a wholesale dealer or a retail dealer, shall carry on the business of public transport requiring the use of motor spirit.

(6) Any registration under sub-section (1) may be suspended or cancelled by such authority, for such reasons, and in such manner, as may be prescribed.

6. Every retail dealer in motor spirit shall in respect of each place where he carries on business— Obligation of retail dealers to keep books of accounts and submit returns,

(a) keep books of account in the prescribed form ; and keep books of accounts

(b) submit every month to the Sales Tax Officer a return in the prescribed form and before the prescribed date, showing— and submit returns,

(i) the quantity of motor spirit received by him during the preceding month;

(ii) the quantity sold by him during such month; and

(iii) such other particulars as may be prescribed.

Receipt for
payment of
tax to be fur-
nished along
with return

7. Along with the return referred to in clause (b) of Section 6, the retail dealer shall furnish a receipt from a Government treasury for the amount of the tax due in respect of the motor spirit sold by him in retail during the preceding month, according to the return.

Determina-
tion of tax
by Sales tax
Officer in
certain
cases and
recovery
thereof.

8. (I) If no return is submitted by a retail dealer under clause (b) of Section 6 in respect of any month before the date prescribed in that behalf, or if the return submitted without a receipt for the full amount of the tax due as required by Section 7, or if the return submitted appears to the Sales Tax officer to be incorrect or incomplete, the Sales Tax Officer shall, after making such enquiry as he considers necessary, determine the amount of the tax due from such retail dealer in respect of such month, and the amount so determined less the sum, if any, already paid by him shall be paid by the retail dealer into the Government treasury within 14 days after the demand is made therefor:

Provided that before taking action under this sub-section, the retail dealer shall be given a reasonable opportunity of proving the correctness and completeness of his return.

(2) In default of payment within the period aforesaid, the amount of tax due shall be recovered from the person from whom the tax is due as if it were an arrear of land revenue.

Obligation
of importers
and
wholesale
dealers to
keep books
of account
and submit
returns.

9. Every importer or wholesale dealer, shall—

(a) keep books of account in the prescribed form; and

(b) submit every month to the Sales Tax Officer of the area, a return in the prescribed form and before the prescribed date showing—

(i) the quantity of motor spirit received by him in the preceding month,

(ii) the quantities of motor spirit supplied by him during such month to other importers, wholesale dealers or retail dealers, specifying the name and addresses of each importer, wholesale dealer or retail dealer, the quantities supplied to him, and the dates on which the supplies were made, and

(iii) such other particulars as may be prescribed.

Power of
entry and
inspection.

10. (1) All accounts and vouchers relating to stocks, purchases, sales and deliveries of motor spirit kept by importers, wholesale dealers and retail dealers and the stocks of motor spirit with them shall be open to inspection by such officers as the Government may authorise in that behalf.

(2) Any such officer shall have power to enter and search any building, vessel, vehicle or place where any importer, wholesale dealer or retail dealer carries on business or keeps any stock of motor spirit.

11. Any person who—

Penalties.

(a) carries on business in motor spirit as an importer, a wholesale dealer or a retail dealer at any place, without getting himself registered as required by sub-section (1) of Section 5 or when his registration in respect of such place is not in force, or

(b) fails to keep books of account as required by clause (a) of Section 6 or of Section 9, or

(c) fails to submit any return as required by clause (b) of Section 6 or of Section 9 on or before the prescribed date, or submits an incorrect or incomplete return, or fails to submit a receipt for the full amount of the tax due as required by Section 7, or

(d) fails to pay the tax due from him within the time allowed, or

(e) fraudulently evades the payment of any tax due under this Regulation, or

(f) acts in contravention of any of the provisions of this Regulation,

shall on conviction by a Magistrate be liable to a fine which may extend to five hundred rupees and where the breach is a continuing one, to a further fine which may extend to ten rupees for every day after the first during which the breach continues.

12. The Motor spirit in respect of which an offence against Motor spirit this Regulation is committed and any receptacle in which such spirit is contained shall be liable to confiscation.

Motor spirit
liable to
confiscation
in certain
cases.

13. (1) When in any case tried by a Magistrate, the Magistrate decides that anything is liable to confiscation under Section 12, he may, after hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim, order confiscation or may give the owner an option to pay such fine as the Magistrate deems fit in lieu of confiscation.

Confiscation
how ordered.

(2) When an offence against this Regulation has been committed but the offender is not known, or cannot be found, or when anything liable to confiscation under this Regulation and not in the possession of any person cannot be satisfactorily accounted for, the case shall be enquired into and determined by the prescribed officer who may order such confiscation :

Provided that no such order shall be made until the expiration of one month from the date of seizure of the things intended to be confiscated or without hearing the persons, if any, claiming any right thereto, and the evidence, if any, which they produce in support of their claims.

Jurisdiction
to try
offences.

14. No Magistrate below the rank of the City Magistrate or a Magistrate of the first class shall try an offence under this Regulation.

Issue of
Warrants
for arrests.

15. (1) Any officer of the Government specially empowered by them in this behalf may issue a warrant for arrest of any person whom he has reason to believe to have committed an offence against this Regulation.

(2) All warrants issued under this Section shall be executed in accordance with the provisions of the Hyderabad Criminal Procedure Code (No. IV) 1313 Fasli, by a police officer, or if the officer issuing the warrant deems fit, by any other person.

Power of
entry and
search
without
warrant.

16. Any officer of the Government, specially empowered by them in this behalf may—

(a) enter and search any building, vessel, vehicle, or place in which he has reason to believe that any motor spirit liable to confiscation under this Regulation is kept or concealed ;

(b) seize any motor spirit and any receptacle which he has reason to believe to be liable to confiscation under this Regulation ; and

(c) detain, search and arrest any person whom he has reason to believe to be guilty of any offence against this Regulation.

Procedure
for arrest
without
warrant.

17. The provisions of Section 45 of the Hyderabad Criminal Procedure Code (No. IV) 1313 F., shall apply to all arrests without warrant made under Section 16.

Offences to
be reported,
etc.

18. Every officer employed by the Government or by any local body shall be bound to give immediate information at the nearest police station or, to the nearest Sales Tax Officer of all breaches of any of the provisions of this Regulation which may come to his knowledge, and all such officers shall be bound to take all reasonable measures in their power to prevent the commission of any such breaches which they may know or have reason to believe are about or likely to be committed.

Power of
Investiga-
tion.

19. (1) Every Sales Tax Officer or *[every officer of the Police Department] not below such rank as may be prescribed, shall, within the area for which he is appointed, have power to investigate all offences against this Regulation.

(2) Every such officer shall, in the conduct of such investigation, exercise the powers conferred by the Hyderabad Criminal

* As amended by Regulation No. XXXIII of 1358 F. published in *Jarid*, No. 30, dated 25th Khurdad, 1358 Fasli.

Procedure Code (No. IV) 1313 F., upon an officer in charge of a police station for the investigation of a cognizable offence :

Provided that if such officer is of opinion that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of an accused to a Magistrate, or that the person arrested may be discharged with a warning, such officer shall release him on his executing a bond, with or without sureties, to appear if and when so required before a Magistrate and shall make a full report of the case to the Commissioner.

20. (1) All offences against this Regulation shall be bailable. Offences to be bailable.

(2) Any officer empowered under Section 19 shall have power to grant bail in accordance with the provisions of the Hyderabad Criminal Procedure Code (No. IV) 1313 F., to any person arrested without warrant for an offence against this Regulation.

21. When anything has been seized by an officer exercising Procedure powers under Section 19, such officer, after such enquiry as he on seizure considers necessary—

(a) if it appears that such thing is required as evidence in the case of any person arrested, shall forward the thing to the Magistrate to whom such person is forwarded or for his appearance before whom bail has been taken ;

(b) if it appears that such thing is liable to confiscation but it is not required as evidence as aforesaid, shall send the thing with the report of the particulars of the seizure to the prescribed authority ; and

(c) if no offence appears to have been committed, shall return the thing to the person from whose possession it was taken and shall report to the prescribed authority accordingly.

22. (1) The prescribed authority may accept from any person who has committed or is reasonably suspected of having committed an offence against this Regulation, by way of compound- Power to compound offences.
position of such offence—

(a) where the offence consists of a sale of motor spirit in contravention of this Regulation or of the evasion of any tax payable under this Regulation, in addition to the tax payable under Section 3, a sum of money not exceeding five hundred rupees or double the amount of the tax payable, whichever is greater and

(d) in other cases, a sum of money not exceeding five hundred rupees.

(2) On the payment of such sum of money and the tax, if any, payable under Section 3, to the prescribed authority, the accused person shall be discharged, the property seized, if any, shall be released and no further proceedings shall be taken against such person or property in respect of such offence.

Cognizance
of offences.

23. (1) No Magistrate shall take cognizance of any offence against this Regulation.—

(i) except upon the complaint or report of the Sales Tax Officer concerned or other prescribed authority, or

(ii) except upon his own knowledge or suspicion.

(2) Except with the sanction of the Government, no Magistrate shall take cognizance of any offence against this Regulation, unless the prosecution is instituted within 6 months from the date on which the offence is alleged to have been committed :

Provided that nothing contained in this sub-section shall apply to any case governed by sub-section (2) of Section 24.

Bar of
certain
proceedings.

24. (1) No suit, prosecution or other legal proceedings shall lie against an officer or servant of the Government for anything which is in good faith done in pursuance of this Regulation.

(2) No suit shall be instituted against the Government and no suit, prosecution or other proceedings shall be instituted against any officer or servant of the Government in respect of any act done or purporting to be done under this Regulation, unless the suit, prosecution or other proceeding is instituted within 6 months from the date of the act complained of.

Appeal.

25. (1) Any person aggrieved by any order passed under this Regulation, not being an order passed by any Court or Magistrate, may appeal to the Commissioner or to such officer as the Government may appoint in this behalf.

(2) The appellate authority may, after giving the appellant an opportunity of being heard, pass such orders on the appeal as such authority thinks fit.

(3) Every order passed in appeal under this Section shall subject to the powers of revision conferred by the Section 26 be final.

Revision.

26. The Commissioner may, at any time, call for and examine the record of any order passed by, or any proceedings recorded by a Sales Tax Officer under this Regulation, for the purpose of satisfying himself as to the legality or propriety of such order, or as to the regularity of such proceedings, and may pass such order in reference thereto as he thinks fit.

Nothing contained in this Section shall apply to the orders or proceedings of any Court or Magistrate.

Power to
make rules.

27. (1) The Government may make rules to carry out the purposes of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, such Rules may provide for—

(a) all matters expressly required or allowed by this Regulation to be prescribed ;

(b) the regulation of the sale of motor spirit for the purpose of enforcing the provisions of this Regulation ;

(c) the duties and powers of inspecting and other officers appointed or authorised to exercise any powers under this Regulation and the procedure to be followed by such officers ;

(d) the form in which, and the time within which, appeals under section 25 may be preferred ; and

(e) any other matter for which there is no provision or no sufficient provision in this Regulation and for which provision is, in the opinion of the Government necessary for giving effect to the purposes of this Regulation.

(3) In making a rule under sub-section (1) or sub-section (2), the Government may provide that a breach thereof shall be punishable with fine which may extend to five hundred rupees and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach continues.
